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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,453	10/02/2000	Amarjeet Singh Bassi	UWO3	6111

7590 01/29/2003

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EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 01/29/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/676,453

Applicant(s)
Bassi et al.

Examiner
Ivars Cintins

Art Unit
1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 19, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 21-45 is/are pending in the application.
- 4a) Of the above, claim(s) 40-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 21-39, 44, and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

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Applicant's election of (1) **protein** as the ionic product species, and (2) **fermentation broth** as the first fluid species is hereby acknowledged. Accordingly, claims 40-43 are withdrawn from further consideration as being directed to non-elected species.

The amendment filed July 18, 2002 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

(1) the paragraph added after page 7, line 24, of the specification; and

(2) the paragraph added after page 8, line 30, of the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

Also, Applicant's "marked-up" copy does not appear to correspond to the changes made to the specification. For example, the amendment filed July 18, 2002 contains instruction to "replace the paragraph beginning on page 5, line 23 with the following - The distributor of the second fluidized bed ..."; but the marked-up version showing changes states that the "paragraph

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beginning on page 5, line 23 has been amended as follows - In the LSCFB ion exchange system of the present invention ...".

Correction is required.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 21-39, 44 and 45 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. It appears essential that the recited "first means connecting" includes structure, i.e. for operation as a packed moving bed, for forming a dynamic seal between the first and second fluidized beds, in order for the recited apparatus to function properly (see page 5, lines 19-22 of the specification; and original claim 1, lines 16-17). Since this critical feature has not been recited in claims 1, 21-39, 44 and 45, these claims are not enabled by the disclosure. *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Claims 31, 33, 35, 37, 39 and 45 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the

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inventor, at the time the application was filed, had possession of the claimed invention. The limitation that the second fluidized bed functions as the adsorber does not appear to be supported by the disclosure originally filed, and hence constitutes **new matter**.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 21-39, 44 and 45 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 1, 21-39, 44 and 45 fail to recite the apparently essential limitation that the first means connecting includes structure for operation as a packed moving bed, thereby forming the essential dynamic seal between the first and second fluidized beds; and therefore, these claims fail to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Also, the limitation that the first liquid fluidized bed is a "conventional liquid fluidized bed" (claim 1, lines 2-3) is vague, and indefinite as to the limitation intended, since that which is "conventional" can change from time to time. The term

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"the second fluidized beds" (claim 22, line 3; claim 23, line 4) is indefinite because it is not readily apparent that a plurality of second fluidized beds are present in the recited system.

Claim 28 is somewhat indefinite because it fails to end with a period. Furthermore, claims 30-33, 38, 39, 44 and 45 appear to merely recite process, not structural, limitations; and are therefore indefinite as to the apparatus limitations contained therein.

Claims 1, 21-39, 44 and 45 have not been rejected over "art" because it is agreed that Stevenson fails to show, or fairly suggest, a fluidized bed system having the recited fluid and solid connections.

Applicant's amendment filed July 18, 2002 necessitated the new grounds of rejection presented in this Office action; and therefore, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

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statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached at (703) 308-1972.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Ivars Cintins
Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
January 25, 2003